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19 Attorneys for Defendants  
20 Kellogg Co., Kellogg USA, Inc., Kellogg Sales Co.

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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

19 SABENA LAKSHMI KAMMULA,  
20 individually and on behalf of all others  
21 similarly situated,

22 Plaintiff,

23 v.

24 KELLOGG COMPANY, a Delaware  
25 corporation; KELLOGG USA, INC., a  
26 Michigan corporation; KELLOGG  
27 SALES COMPANY, a Delaware  
corporation, and DOES 1 through 100,  
inclusive,

Defendants.

} No. CV 09-08102 (MMM) (RZx)

} DECLARATION OF RICHARD P.  
STEINKEN IN SUPPORT OF  
DEFENDANTS' *EX PARTE*  
APPLICATION TO CONTINUE  
HEARING ON PLAINTIFF'S  
MOTION FOR CLASS  
CERTIFICATION

} [*Ex Parte* Application, Memorandum of  
Points and Authorities, and Proposed  
Order concurrently herewith]

1 I, Richard P. Steinken, declare:

2 1. I am a Partner in the Chicago office of Jenner & Block LLP, counsel for  
3 the Defendants in this action. If called to testify, I would and could testify with  
4 personal knowledge as to all of the following.

5 2. At the request of Plaintiff's counsel, Defendants agreed to enter into a  
6 joint stipulation asking that the original deadline for filing a motion for class  
7 certification be extended to a date to be determined at the initial status conference  
8 currently set for March 29, 2010. A true and correct copy of the joint stipulation filed  
9 with the Court is attached hereto as Exhibit A.

10 3. On February 18, 2010, the Court, on its own motion, entered an order  
11 continuing the hearing on Plaintiff's motion for class certification to April 12, 2010.  
12 A true and correct copy of the Court's order is attached hereto as Exhibit B.

13 4. Plaintiff's counsel served three sets of interrogatories and document  
14 requests on Defendants on March 2, 2010. Each set contains 47 specific document  
15 requests and 18 interrogatories.

16 5. I asked Wayne S. Kreger and Sara D. Avila, counsel for Plaintiff, to enter  
17 into a stipulation asking the Court to continue the hearing on Plaintiff's motion for  
18 class certification by 30 days to permit adequate discovery for all parties. Counsel for  
19 Plaintiff refused to enter into that stipulation, and instead proposed a two week  
20 continuance of the hearing. I rejected that proposal because a two week continuance  
21 would be unfair to the Defendants: It would allow Plaintiff's attorneys to obtain  
22 discovery before they filed their reply brief, but Defendants would not have the  
23 benefit of any discovery before filing the opposition brief.

24 6. A 30-day continuance of the hearing on Plaintiff's motion for class  
25 certification is necessary to permit Defendants to serve written discovery and depose  
26 the Plaintiff on topics necessary to determine whether the purported class satisfies the  
27 Rule 23 prerequisites.

28 7. Defendants (as well as Plaintiff) did not propound discovery in advance

1 of the date on which Plaintiff filed her motion for class certification. I believed in  
2 good-faith that Plaintiff's deadline for filing her motion for class certification would  
3 be extended to a date following the initial status conference, currently scheduled for  
4 March 29, 2010, in accordance with the joint stipulation filed with the Court.

5 8. I advised counsel for Plaintiff on March 4, 2010 that Defendants would  
6 be filing an *ex parte* application requesting a 30-day continuance of the hearing on  
7 Plaintiff's motion for class certification. Plaintiff's counsel will oppose this  
8 application.

9 I declare under penalty of perjury under the laws of the State of California that  
10 the foregoing is true and correct.

11 Executed on March 5, 2010 in Chicago, Illinois.

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Richard P. Steinken

## **EXHIBIT A**

1 **MILSTEIN, ADELMAN & KREGER  
LLP**

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12 Attorneys for Defendants,  
13 Kellogg Co., Kellogg USA, Inc., Kellogg Sales Co.

14 ADDITIONAL ATTORNEYS FOR PARTIES IDENTIFIED ON SIGNATURE  
15 PAGE

16 UNITED STATES DISTRICT COURT

17 FOR THE CENTRAL DISTRICT OF CALIFORNIA

18 SABENA LAKSHMI KAMMULA,  
19 individually and on behalf of all others  
similarly situated,

20 Plaintiff,

21 vs.

22 KELLOGG COMPANY, a Delaware  
corporation; KELLOGG USA, INC., a  
23 Michigan corporation; KELLOGG  
SALES COMPANY, a Delaware  
corporation, and DOES 1 through 100,  
24 inclusive,

25 Defendants.

26 No. CV09-08102 (MMM) (RZx)

27 **STIPULATION AND REQUEST  
FOR [PROPOSED] ORDER TO  
EXTEND DEADLINE TO FILE  
MOTION FOR CLASS  
CERTIFICATION [LOCAL RULE  
23-3]**

28 Plaintiff SABENA LAKSHMI KAMMULA ("Plaintiff") and Defendants  
KELLOGG COMPANY, KELLOGG USA, INC., and KELLOGG SALES

1 COMPANY (collectively, "Defendants"), by and through their attorneys of record,  
2 (collectively, "Parties") agree and stipulate as follows:

3  
4 WHEREAS Plaintiff filed her original Complaint in this action on November 5,  
5 2009;

6  
7 WHEREAS Plaintiff served the Complaint on or about November 20, 2009;

8  
9 WHEREAS Plaintiff filed and served a First Amended Complaint on December  
10 9, 2009;

11  
12 WHEREAS Parties agreed to an extension of time until January 22, 2010 for  
13 Defendants to answer or otherwise plead to the amended complaint;

14  
15 WHEREAS, Local Rule 23-3 provides, "[w]ithin 90 days after service of a  
16 pleading purporting to commence a class action...the proponent of the class shall file  
17 a motion for class certification that the action is maintainable as a class action, unless  
18 otherwise ordered by the Court";

19  
20 WHEREAS, pursuant to Local Rule 23-3, Plaintiff's Motion for Class  
21 Certification is currently due on February 18, 2010;

22  
23 WHEREAS, the initial status conference in this action has not been set and  
24 discovery has not commenced;

25  
26 WHEREAS the parties believe it is appropriate that the time period to file a  
27 Motion for Class Certification be modified, given that: (1) no discovery on the

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1 prerequisites of Rule 23 have occurred; and (2) the parties have not had sufficient time  
 2 to develop an adequate record to move for, or oppose, class certification;

3

4 Accordingly, subject to the approval of this Court, the parties STIPULATE  
 5 AND AGREE AND HEREBY REQUEST that the Court extend the February 18,  
 6 2010 deadline for Plaintiff to file a Motion for Class Certification to a date to be  
 7 determined at the initial status conference.

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9

Respectfully submitted,

10

February 2, 2010

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12 Attorneys for Plaintiff Sabena L. Attorneys for Defendants Kellogg  
 13 Kammula Company, Kellogg USA, Inc., and  
 14 Kellogg Sales Company

/s/ Wayne S. Kreger

/s/ Dean N. Panos

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## **EXHIBIT B**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 09-08102-MMM(RZx)

Date February 18, 2010

Title Sabena Lakshmi Kammula v. Kellog Company et al

Present: The Honorable MARGARET M. MORROW

ANEL HUERTA

N/A

Deputy Clerk

Court Reporter

Attorneys Present for Plaintiffs:

N/A

Attorneys Present for Defendants:

N/A

Proceedings: IN CHAMBERS - COURT ORDER

On February 18, 2010, the plaintiff filed a motion to certify class (document no. 27). The court, on its own motion, hereby continues the hearing on plaintiff's motion to **April 12, 2010 at 10:00 a.m.**